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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

NINGCHUAN SHEN,	)	
QI FAN,	)	No. C 07-3148 PVT
SHIYI SHEN,	)	
	)	
Plaintiffs,	)	ANSWER
	)	
v.	)	
	)	
MICHAEL CHERTOFF, Secretary of the	)	
Department of Homeland Security;	)	
ROBERT S. MUELLER, Director of Federal	)	
Bureau of Investigation,	)	
	)	
Defendants.	)	

Defendants hereby submit their answer to Plaintiffs' Complaint for Writ in the Nature of Mandamus.

1. Paragraph One consists of Plaintiffs' characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, the Defendants deny that they have improperly withheld action on Plaintiffs' applications to their detriment.

**PARTIES**

2. Defendants admit the allegations in Paragraph Two.

3. Defendants admit the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

ANSWER  
C07-3148 PVT

**JURISDICTION**

5. Paragraph Five consists of Plaintiffs' allegations regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny the allegations in this paragraph.

**VENUE**

6. Paragraph Six consists of Plaintiffs' allegations regarding venue, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny the allegations in this paragraph.

**EXHAUSTION OF REMEDIES**

7. Defendants deny the allegations in Paragraph Seven.

**CAUSE OF ACTION**

8. Defendants admit the allegations in Paragraph Eight.

9. Defendants are without sufficient information to admit or deny the allegations in Paragraph Nine.

10. Defendants admit the allegations in Paragraph Ten.

11. Defendants deny the allegations in Paragraph Eleven.

12. Defendants deny the allegations in Paragraph Twelve.

13. Defendants deny the allegations in Paragraph Thirteen.

**PRAYER**

14. Paragraph Fourteen consists of Plaintiffs' prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

**FIRST AFFIRMATIVE DEFENSE**

The Court lacks jurisdiction over the subject matter of this action.

**SECOND AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim against the Defendants upon which relief can be granted.

**THIRD AFFIRMATIVE DEFENSE**

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

**FOURTH AFFIRMATIVE DEFENSE**

At all times alleged in the complaint, Defendants were acting with good faith, with justification, and pursuant to authority.

**FIFTH AFFIRMATIVE DEFENSE**

Defendants are processing the applications referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

**SIXTH AFFIRMATIVE DEFENSE**

Defendants' delay is not unreasonable as a matter of law.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for Defendants and against Plaintiffs, dismissing Plaintiffs' complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: August 17, 2007

Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

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/s/  
ILA C. DEISS  
Assistant United States Attorney  
Attorneys for Defendants